

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:99-CR-00041-F-1
No. 7:16-CV-00131-F

EUGENE JAMES LOGAN,)
Petitioner,)
v.)
UNITED STATES OF AMERICA,)
Respondent.)

O R D E R

This matter is before the court on Eugene James Logan's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 [DE-42]. The issues have been fully briefed, and the matter is now ripe for ruling. For the reasons more fully stated below, Logan's Motion to Vacate is ALLOWED.

In Logan's Motion to Vacate, he argues that he is no longer an armed career criminal as a result of *Johnson v. United States*, 135 S. Ct. 2551 (2015). Mot. Vacate [DE-42] at 4. Logan specifically contends that his North Carolina convictions for assault with a deadly weapon, assault with a deadly weapon inflicting serious injury, and common law robbery are no longer valid predicate convictions for the Armed Career Criminal Act ("ACCA"). *Id.*

The Government agrees that in light of *Johnson* and upon review of the relevant state court documents, Logan no longer qualifies for enhancement under the ACCA. Resp. [DE-50] at 2. The Government concludes that Logan's judgment should be vacated, and he should be resentenced. *Id.* at 9.

In light of the foregoing, including the Government's concessions, Logan's Motion to

Vacate [DE-42] is ALLOWED. Logan's September 7, 1999 Judgment [DE-15] of conviction and sentence hereby is VACATED, and he is to be promptly resentenced without the § 924(e) enhancement.

SO ORDERED.

This, the 8 day of September, 2016.

James C. Fox
JAMES C. FOX
Senior United States District Judge